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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/549,356	02/15/2007	Kiran K. Baikerikar	62657A	1717
109 7590 04/01/2011 The Dow Chemical Company P.O. BOX 1967 2040 Dow Center Midland, MI 48641				
EXAMINER FLETCHER III, WILLIAM P				
ART UNIT		PAPER NUMBER		
1715				
NOTIFICATION DATE		DELIVERY MODE		
04/01/2011		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

FFUIMPC@dow.com

# Office Action Summary

**Application No.**

10/549,356

**Applicant(s)**

BAIKERIKAR ET AL.

**Examiner**

William P. Fletcher III

**Art Unit**

1715

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 January 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 and 11-18 is/are pending in the application.
- 4a) Of the above claim(s) 1-6 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9 and 15-18 is/are allowed.
- 6) ☒ Claim(s) 7, 8 and 11-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-940)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 1/23/06 & 1/29/10
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

1. The amendment filed 1/21/2011 is noted.
2. Claims 1-9 and 11-18 remain pending.

### ***Election/Restrictions***

3. Applicant's election with traverse of the method claims in the reply filed on 1/29/2010 is acknowledged. The traversal is on the ground(s) that examination of composition and method claims does not present an undue burden. This is not found persuasive because the burden on the examiner extends to the patentability issues associated with, and evolving as a result of, searching additional inventions. Issues related to a process are frequently very different from those related to a composition. For example, the issues related to the formulation requirements of a composition need not be familiar to an examiner of specific processes. Consequently, examination of process claims and composition claims presents a serious burden on the Primary Examiner both because of (1) a divergent or non-overlapping search related to the separate classification of the inventions and (2) the evolution of patentability issues related to searching multiple and distinct inventions.
4. The requirement is still deemed proper and is therefore made FINAL.

### ***Information Disclosure Statement***

5. The information disclosure statement (IDS) submitted on 1/23/2006 and 1/29/2010 have been considered by the Primary Examiner.

### ***Specification***

6. The abstract of the disclosure is objected to because it fails to recite process steps. Correction is required. See MPEP § 608.01(b).
7. Applicant is reminded of the proper content of an abstract of the disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Where applicable, the abstract should include the following:

- (1) if a machine or apparatus, its organization and operation;
- (2) if an article, its method of making;
- (3) if a chemical compound, its identity and use;
- (4) if a mixture, its ingredients;
- (5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

8. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

***Claim Objections***

9. Claims 7 and 16 are objected to because of the following informalities:
- A. In claim 7, *catalysts* should, apparently, read "catalyst."
  - B. In claim 16, *saline* should, apparently, read "silane."

Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).
12. Claims 7, 8, and 11-14, are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 02/16477 A1 in view of EP 1 246 239 A1.

- A. Claim 7

- i. WO '477 teaches all of the limitations of this claim at 3:1-6; 4:2-9; and 4:16-17, except the presence of latent acid catalysts.
  - ii. EP '239 teaches the curing of a layer of a composition similar to that disclosed by WO '477 in which latent acid catalysts are utilized to accelerate curing [0080-0081].
  - iii. Consequently, it would have been obvious to one skilled in the art to modify the process of WO '477 so as to utilize latent acid catalysts, motivated by the desire and expectation of accelerating curing.
- B. Claim 8
  - i. While neither of these references expressly teaches more than one layer, it is well known in the art to repeat a coating step in order to build up a coating layer of a desired thickness.
- C. Claim 11
  - i. See WO '477, claim 3.
- D. Claim 12
  - i. See WO '477, 11:17+.
- E. Claim 13
  - i. EP '239 teaches both thermal and photo latent acid catalysts [0081].
- F. Claim 14
  - i. WO '477 teaches phenyl, see page 10, sixth line from bottom.

***Allowable Subject Matter***

13. Claims 9 and 15-18 are allowed.
14. The following is a statement of reasons for the indication of allowable subject matter: The prior art neither teaches nor suggests the claimed process of forming an antireflective coating characterized in that each layer of organosilicate differs in light absorption properties from an adjacent layer.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William P. Fletcher III whose telephone number is (571) 272-1419. The examiner can normally be reached on Monday through Friday, 9:00 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy H. Meeks can be reached on (571) 272-1423. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/William Phillip Fletcher III/  
Primary Examiner, Art Unit 1715

3/27/2011